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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,022	09/11/2002	Michael Chiapperini	02-087-MC	7557
32118	7590	08/25/2004		
LAMBERT & ASSOCIATES, P.L.L.C. 92 STATE STREET BOSTON, MA 02109-2004			EXAMINER NGUYEN, PHUNG	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 08/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,022

Applicant(s)

CHIAPPERINI, MICHAEL

Examiner

Phung T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-11, and 13-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Malone et al. (U.S. Pat. 5,859,588) in view of Hartley (U.S. Pat. 4,067,290).

**Regarding claim 1:** Malone et al. disclose a purse equipped to disperse pepper spray and air siren which comprises all subject matter as follows:

- a. a repellant spray member housed inside of the housing member as seen in figure 1, col. 2, line 24;
- b. a sound generating member housed inside of the housing member as seen in figure 1, col. 2, line 25;
- c. means for activation 12 of the repellant spray member, wherein upon activation of the repellant spray member a repellant stored inside of the repellant spray member is released from the repellant spray member (col. 2, lines 54-60); and
- d. means for actuation 12 of the sound generating member, wherein upon activation of the sound generating member a sound is emitted from the sound generating member (col. 2, lines 54-61);

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e. Malone et al. do not show the housing member which does not fully house the canister. However, Hartley discloses purse theft alarm comprising the housing member 20 including the canister 34 as shown in figure 2, col. 2, lines 7-26. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to employ the teaching of Hartley in the system of Malone et al. because they both teach an alarm device attached to a lady's purse. It is seen that placing the canister inside of the housing member would provide more security.

**Regarding claim 2:** Malone et al. disclose the housing member has a first aperture 18 for allowing release from the housing member of the repellant when the repellant spray is activated (figure 1, col. 2, lines 16-18).

**Regarding claim 3:** Malone et al. disclose the housing member has a second aperture 24 for allowing emission from the housing member of the sound when the sound generating member is activated (figure 1, col. 2, lines 39-42).

**Regarding claim 4:** Malone et al. disclose the claimed means for simultaneous activation of the repellant spray member and the sound generating member (col. 2, lines 58-60).

**Regarding claim 7:** Malone et al. disclose an actuator 12, integrated with the housing member, wherein the actuator has means for simultaneous activation of the repellant spray member and the sound generating member (col. 2, lines 58-60).

**Regarding claim 8:** Malone et al. disclose the repellant is a noxious gas (col. 2, lines 16-18).

**Regarding claim 9:** Malone et al. disclose the noxious gases in the form of pepper spray (col. 1, lines 19-20, and col. 2, line 24) rather than a mixture of noxious gases. However, it is seen that pepper spray is a combination of attack-repellent chemicals. Therefore, it would have

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been obvious to the skilled artisan to readily recognize that the pepper spray is a mixture of noxious gases in order to ward off potential attackers.

**Regarding claim 10:** Malone et al. disclose the sound generating member is comprised of a compressed gas container coupled to a horn (col. 2, lines 25-44).

**Regarding claim 11:** Malone et al. disclose the sound generating member is comprised of a compressed gas container coupled to a whistle (col. 2, lines 25-44).

**Regarding claim 13:** All the claim subject matter is already discussed in respect to claims 1-3 above. Malone et al. also disclose an actuator 12 (figure 1, col. 1, lines 63-65) integrated with the housing member, wherein the actuator has:

means for activation of the repellant spray member, wherein upon activation of the repellant spray member a repellant stored inside of the repellant spray member is released from the repellant spray member (col. 2, lines 54-60), and further release from the housing member via the first aperture 18 (col. 2, lines 16-18); and

means for actuation of the sound generating member, wherein upon activation of the sound generating member a sound is emitted from the sound generating member (col. 2, lines 54-61), and further release from the housing member via the second aperture 24 (col. 2, lines 39-42).

**Regarding claim 14:** Malone et al. disclose the claimed an actuator 12 has means for simultaneous activation of the repellant spray member and the sound generating member (col. 2, lines 58-60).

**Regarding claim 15:** Malone et al. disclose the repellant is a noxious gas (col. 2, lines 16-18).

**Regarding claim 16:** Malone et al. disclose the noxious gases in the form of pepper spray (col. 1, lines 19-20, and col. 2, line 24) rather than a mixture of noxious gases. However, it is seen that pepper spray is a combination of attack-repellent chemicals. Therefore, it would have been obvious to the skilled artisan to readily recognize that the pepper spray is a mixture of noxious gases in order to ward off potential attackers.

**Regarding claim 17:** Malone et al. disclose the sound generating member is comprised of a compressed gas container coupled to a horn (col. 2, lines 25-44).

**Regarding claim 18:** Malone et al. disclose the sound generating member is comprised of a compressed gas container coupled to a whistle (col. 2, lines 25-44).

3. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malone et al. in view of Hartley and further in view of Keeter (U.S. Pat. 5,867,099).

**Regarding claim 5:** Malone et al. disclose the actuator 12 for simultaneous activation of the repellent spray member and the sound generating member (col. 2, lines 58-60). Malone et al. and Hartley do not teach the actuator has means for selectively activating the repellent spray member as claimed. However, Keeter discloses a motion sensing lighting and alarming system comprising the three position mini-slide switch 28 to select the particular mode (light mode, audible mode, or both the light and the audible alarm) as seen in figure 2, col. 4, lines 65-67, and col. 5, lines 1-7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the switch 28 of Keeter with the switch 12 of Malone et al. because they teach an alarm system to deter an attacker. Keeter's teaching of three-position

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mini-slide switch would enhance the system of the combination by giving the user an option of selecting the particular mode as desired.

**Regarding claim 6:** Malone et al. disclose the actuator 12 for simultaneous activation of the repellant spray member and the sound generating member (col. 2, lines 58-60). Malone et al. and Hartley do not teach the actuator has means for selectively activating the sound generating member as claimed. However, Keeter discloses a motion sensing lighting and alarming system comprising the three position mini-slide switch 28 to select the particular mode (light mode, audible mode, or both the light and the audible alarm) as seen in figure 2, col. 4, lines 65-67, and col. 5, lines 1-7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the switch 28 of Keeter with the switch 12 of Malone et al. because they teach an alarm system to deter an attacker. Keeter's teaching of three-position mini-slide switch would enhance the system of Malone et al. and Hartley by giving the user an option of selecting the particular mode as desired.

4. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malone et al. in view of Hartely and further in view of Masi et al. (U.S. Pat. 5,517,180).

**Regarding claim 12:** Malone et al. teach the sound generating member has means for emitting sound waves (col. 2, lines 39-42). Malone et al. and Hartley do not disclose the sound generating member has mean for emitting sound waves that are audible to animals and not audible to humans as claimed. However, Masi et al. disclose a personal protection device comprising the alarm 826 can be a high pitched frequency which deters animals (figure 8, col. 9, lines 14-18). Therefore, it would have been obvious to one of ordinary skill the art at the time the

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invention was made to employ the teaching of Masi et al. in the system of the combination because they teach a personal protection device using sound that renders the device very effective against any potential attackers. The teaching of Masi et al. would extend the use of the system of the combination by providing an alternative use for a person to ward off attacking dogs and other attacking animals.

**Regarding claim 19:** Malone et al. teach the sound generating member has means for emitting sound waves (col. 2, lines 39-42). Malone et al. and Hartley do not disclose the sound generating member has mean for emitting sound waves that are audible to animals and not audible to humans as claimed. However, Masi et al. disclose a personal protection device comprising the alarm 826 can be a high pitched frequency which deters animals (figure 8, col. 9, lines 14-18). Therefore, it would have been obvious to one of ordinary skill the art at the time the invention was made to employ the teaching of Masi et al. in the system of the combination because they teach a personal protection device using sound that renders the device very effective against any potential attackers. The teaching of Masi et al. would extend the use of the system of the combination by providing an alternative use for a person to ward off attacking dogs and other attacking animals.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Johnson et al. [U.S. Pat. 5,556,003] disclose hand-held personal defense apparatus.



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b. Soper [U.S. Pat. 5,635,908] discloses portable audio, alarm, electric stun and spray deterrent apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5: 30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 703-308-6730. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Phung Nguyen



Date: August 19, 2004